IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11914 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GITABEN CHIMANBHAI MAKWANA

Versus

STATE OF GUJARAT

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Appearance:

MS SUBHADRA G PATEL for Petitioner

MR SAMIR J DAVE for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/01/2001

ORAL JUDGEMENT

#. Heard the learned counsel for the parties. The petitioner filed this petition under Article 226 of the Constitution challenging the order dated 14-9-2000 of the Commissioner of Police, Rajkot city under which the petitioner was ordered to be detained in exercise of

powers conferred under section 3(1) of the Prevention of Anti Social Activities Act,1985, as a bootlegger.

#. Challenging the order of detention, learned counsel for the petitioner raised manifold contentions but as this petition deserves to be allowed only on one ground, it is not necessary as well as not in the interest of judicial time to refer, discuss and decide on all other contentions.

#. It is contended that the respondent detaining authority has not supplied the copy of the statements of witnesses recorded u/s.161 of Cr.P.C.. It is further stated that for want of copy of the statements of witnesses recorded under section 161 of Cr.P.C., the petitioner could not make an effective representation to the authority. So the right conferred upon her under Article 22 (5) of the Constitution is violated.

#. Reply to the special civil application has not been filed by any of the respondents. This petition was admitted on 22nd November, 2000. Learned counsel for the respondents prays for time to file reply to the special civil application but I do not find any merits in this request for the reason that the respondents if they really desired to file reply to the special civil application they had more than sufficient time available at their disposal. The factual averment made in the special civil application that the copy of statements of witnesses recorded under section 161 of Cr.P.C. have not been furnished to the petitioner stands uncontroverted. It is a clear case where the petitioner has been denied of his right of making effective representation against the detention order as conferred upon him under Article 22(5) of the Constitution of India.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 14-9-2000 is quashed and set aside. The petitioner Gitaben Chimanbhai Makwana, detenue, at present in Ahmedabad Central Prison, Ahmedabad be set free forthwith, if she is not required in any other case. Rule is made absolute. No order as to costs.

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